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91-492

(1)

No. _____

Supreme Court, U.S.

FILED

JUL 9 1991

OFFICE OF THE CLERK

IN THE
SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1991

RICHARD W. PLYMALE - PETITIONER

vs.

DONALD R. FREEMAN, ESQ. ET. AL. - RESPONDENTS

PETITION FOR WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

PETITION FOR WRIT OF CERTIORARI

RICHARD W. PLYMALE
211 E. South Street,
Davison, MI 48423-1699
(313) 653-5325
Counsel for Petitioner

QUESTION PRESENTED

Did the Sixth District Court of Appeals act improperly to dismiss plaintiff Plymale's appeal for action and to deny his "day in court" of petition for redress of violations of my constitutional rights dismissed on the basis of "substantial infirmities"? Infirmity is defined as feebleness or weakness or disability of a person in body or mind. The fact that I am a disabled veteran is not an issue in this case, nor should it be, and the raising of non-issues as a substantial reason for dismissal is a violation of my basic constitutional rights to a fair and impartial judiciary in itself, and further, it is most obnoxious to me.

The subsidiary questions fairly included are:

1. Whether they acted prejudicially in favor of the defendants, several of whom are court officers for the purpose of c.y.a.

2. Whether the Appeals Court acted prejudicially to accept a fee for special standing of one of the defendants, but yet refused acceptance of the same fee submitted by plaintiff in the same manner, when the underlying issues of the case presented could lead to Bar exclusion, and 3. Whether any and every effort was made to exercise the judicial duty to thoroughly investigate review and understand my complaint, irrespective of the identity of the defendants. and in spite of lack of legal jargon. In other words, an inartfully constructed complaint does not in any way invalidate it or should cause less than an impartial review. This partiality seems to be referred to as "consideration".

FOOTNOTE

ALL PARTIES TO THE PROCEEDINGS ARE AS FOLLOWS:

DONALD R. FREEMAN, Esq.; JUDITH
A. FULLERTON; MICHAEL J.
MANGAPORA; ROBERT WEYHING, III;
MICHAEL V. KELL; BARRY L. MOON;
H. WILLIAM BUTLER; DONALD G.
ROCKWELL; THOMAS YEOTIS; ROBERT
M. RANSOM; WILLIAM A. REDMOND;
STEWART A. NEWBLATT; JOHN DOE,
John/Jane Doe 1, John/Jane Doe 2
each and every associate of the
court officers represented above;
JURIDICAL PERSON OF THE CHIEF
ADMINISTRATIVE OFFICE OF THE
JUDICIAL COURT SYSTEM OF THE
STATE OF THE STATE OF MICHIGAN,

Defendants

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Appendix C	Constitution of the United States of America and its Amendments

TABLE OF AUTHORITIES CITED

DICTIONARIES

Infirmity. Disability; feebleness. In an application for insurance an ailment or disease of a substantial character, which apparently in some material degree impairs the physical condition and health of the applicant and increases the chance of his death or sickness and which if known, would have been likely to deter the insurance company from issuing the policy. See also Incapacity.

Black's Law Dictionary

infirmity (in-fir'ml-te) [L. *infirmitas*]. 1. A feeble or weak state of the body or mind. 2. A disease or condition producing weakness.

Dorland's Medical Dictionary

Infirmity. [L. *infirmitas*.] An abnormal, more or less disabling, condition of mind or body.

Stedman's Medical Dictionary

In-fir-mi-ty (in-für'mä-ti), *n.* 1. a being infirm; feebleness; weakness. 2. [pl. -ties], a) a physical weakness or defect. b) a moral weakness.

Webster's New World Dictionary

CASE

Kras v. _____ (1973) Justice Blackmun--
demands all pay
fees alike

NO. _____

IN THE SUPREME COURT
OF THE
UNITED STATES OF AMERICA

OCTOBER TERM, 1991

RICHARD W. PLYMALE, Petitioner

vs,

DONALD R. FREEMAN, Esq. ET. AL., Respondents

PETITION FOR WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

Petitioner, Richard W. Plymale, respectfully prays that a writ of certiorari issue to review the judgement and opinion of the United States Court

of Appeals for the Sixth Circuit which dismissed from standing my various complaints and request for redress of my grievances as guaranteed by the Constitution of the United States and its Amendments, and failed to order a fair, impartial trial in the proper venue for same.

OPINIONS BELOW

The opinion of the Court of Appeals appears as Appendix A to this petition. The written opinion of the District Court for the Eastern District of Michigan, Northern Division, appears as Appendix B to this petition.

JURISDICTION

The Court of Appeals opinion in this matter was issued April 12, 1991, and is set forth in Appendix A. This Court's jurisdiction is invoked under all applicable United States Law.

CONSTITUTIONAL AND
STATUORY PROVISIONS INVOLVED

The Constitution of the United States in its entirety through the 18th amendment is set forth in Appendix C. I claim the equal application of all provisions. It is an oxymoron in not holding court officers accountable for the enforcement of the equal application of the Consitution and the Law, and not to ignore the fact of discrimination is against a disables veteran, and using this circumstance for discrimination is in and if itself a violation of U.S. Law. It is further obnoxious to ferret out specific provisions as examples: not unlike going to the doctor with a "belly-ache"; the doctor doesn't expect to hear "I have epigastric pain consistent with mucosal erosion" as a complaint.

STATEMENT OF THE CASE

Petitioner has brought complaint to the United States District Court, Eastern District of Michigan, Northern Division. This suit was dismissed for no good cause veing given and for the bad cause of the relief of collegial associates.

The basis od the dismissal were "infirmities", which is defined as a descriptor of an individual person, and not a thing, as shown from the references given, which are from general, medical, and kegal dictionaries. Further, the use of this reference to a disabled veteran of the United States is an arch-typical example of the complaints raised in the suit, which seems to fall under the activities covered by the

R.I.C.O. Act. Further, the reference is made to "rule 8", but every effort even to discover what "rule 8" is about has been thwarted.

The Supreme Court of the United States is the court of "last resort" for the assertion of the righting of the basic constitutional wrongs that I have sustained.

I anticipate a granting of the writ of certiori, and subsequently, a remand for trial in the local venue.

Moreover, the United States Appeals Court accepted the check for granting the special standing of a defendant, yet, returned uncashed my check for the same purpose of belonging to the "club", with the fact that the "club", the agency of qualification is stated as a defendant to the action.

Moreover, it is the aegis of the Bar, the "club" to enforce the specific rules that govern member's conduct, so failure to do so, effectively, removes the equal protection provision of the constitution, as well as gets around United States Supreme Court Rule 5, governing the upright and according to law conduct which is brought to question by the initial action filed in U. S. District Court. The basis of the case is the effect upon the basic constitutional rights of every U. S. Citizen conferred upon them by the Constitution and it's amendments. With the acceptance of these rights comes the duty and responsibility to defend and enforce these rights, specifically herein, the provision of the equal protection of the laws by enforcement of the special laws governing the conduct of court officers.

In this case, Donald R. Freeman, Esq. allowed the introduction and maintenance of an affidavit that he knew was false, and a violation of the Rule 1 of Court Officers conduct, and worked to conceal the fact that he had this information. With these rights comes the responsibility of citizenship which is conferred upon every citizen. When an individual elects to be a public official, an attorney, or a judicial officer, he/she accepts along with the special privilege and rights, an equal responsibility and duty to defend, maintain and protect and secure these constitutional rights of a fair and impartial judiciary for all citizens, irrespective of circumstance. Further, to violate, or to allow or permit the violation of the basic constitutional rights as well as the laws whose aegis it is to enforce

these rights, especially in the situation to gain a benefit or an advantage, is most repugnant, reprehensible, and dewcructive of the basic principles of the Cobstitution and tends to destroy faith in the integrity of the whole judicial system.

With theis increased responsibility as a matter of the preservation of these basic rights for all subject citizens, it is incumbent that htere is a viable, operative, thoroughgoing mechanism to reviewm evaluate, and repair any breaches in their responsibility. It is further incimbent upon this mechanism to take any and all necessary action to remove from operation any individual or organization which breaches their responsibility, and this mechanism should act to remove the basic constitutional rights of any perpetrators of any constitutional wrong-doing: e.g. "use it or lose it".

It seems logical that those responsible, as part of their breach of responsibility, lose the fruits of their rights themselves, in such matters as voting, obtaining any license from the government, welfare, and the such. This is not unlike the "S.P.Q.R." concept of the Roman Empire, or the experience of the Apostle Paul in the Bible. Constitutional rights are not like ripe apples, they just don't drop off trees. They have to be asserted, apparently, which in an unfortunate state of affairs.

I think that to have to go to the extreme action of an application to the Supreme Court of the United States of America is a little extreme in my effort that i have to do to exert the effort of securing the basic rights that I have for myself as an ordinary U. S. Citizen, and not a public official or a court officer. I claim the right to be unfettered with the presence in

court of known suborned perjury, to have my handicap illuminated in court when it has no bearing on the issues, and to have my personal medical records, obtained by subpoena, made public as a source of embarrassment. I have 24 separate complaints, all of which not even been subject to any review, Contralaterally, there are two subsidiary issues presented here: (1) the lower court acted improperly in denying my "day in court" on the basis of the affront of being a disables veteran-"infirmities", and (2) the lower court acted improperly in accepting the money for registration of a court officer, knowing that his conduct was an issue in this case presented, and yet failing to accpet and rejecting my check for the same amount to secure the same consideration. Stated another way, is the court an exclusive club which routinely

and knowingly violated my constitutional rights itself?

The District Court objected to the "bulk" of the complaints presented.

Summary of Count #2 is as follows:

Attorney Michael V. Kell, Esq, improperly obtained my personal medical records which disclosed to him the fact that I had a medical condition consisting of a permanent injury and damage to my larynx. He forced me to be present and to testify at length in court to the point that I developed a severe laryngitis, and I was vulnerable to experience this pain in my throat. He alluded to the fact that I was clutching my throat as some sort of "body language" of guilt. This is a clear, abusive, obvious and serious violation of my rights under the Constitution and I DEMAND redress.

I have been asked on several occasions as to what I think the chances are that the United States Supreme Court will act favorable to my petition. My expectation is about 100% for two reasons: My basic Constitutional rights have been seriously and definitively violated, and I have been deprived of my 'day in court' for redress, and (2) the fact that the lower court itself has acted to depreciate my constitutional rights is most vexacious to me, would me to most U. S. Citizens, and should be to the U. S. Supreme Court.

There is a distant, but mounting clamor for the limitations of service of United States Senators and Representatives as has been done with the Presidency. It would seem that Federal judges would, could, and should be included in this limitation for the expense of about three additional

inches of typewriter ribbon on the legislation. It is conceivable that this case could be fuel to the "cause cleebre" fire with widespread appeal and demand for legislative and constitutional amendment action. The news media would pick up on this in a most awesome manner.

I want to reiterate that I made every possible effort even to discover what "rule 8" was about. The local library had nothing, The United States District Court locally had no such thing as a rule book, according to the Clerk, and she didn't have any idea where to get such a thing. I frequently use the various libraries at the University of Michigan, but the Law Library is "not open" to anyone who does not have a student identification card to the Law School, whereas the other libraries are not restricted in any manner. The local

"law library" of the county courthouse is "not open to the public". So apparent non-compliance is the result of not knowing in what manner to comply, which obviously is a direct violation of my basic constitutional right to access to the federal courts.

REASONS FOR GRANTING THE WRIT

The obvious reason to grant this writ of certiori is to grant the first step in affording me an opportunity to assert my basic constitutional rights, and finding that they must be vigorously pursued, or they are apparently lost; but a second reason is to restore basic confidence in the fairness, equity, impartiality and constitutionality of the Court system itself.

People familiar with my tribulations have asked me why I haven't gone to any of various special interest groups for assistance, and the answer is that I harbor the ideology that justice will ultimately prevail and the Supreme Court will act affirmatively, and

my personal interests, as well as those of our nation will be better served. Candidly, I don't think that a 60 Minutes expose would help the Supreme Court in their deliberations, but i'm sure it would cause a commotion in Congress; no one would disagree with that.



CONCLUSIONS

For the reasons of granting the opportunity for this petitioner to assert his basic constitutional rights and protections, and to promote the harmony and good-will of the Supreme Court, a writ of certiori should promptly be issued to review the judgement and opinion of the Court of Appeals as it reviewed the subjects and substance of the matters resented, and if this Court elects not to address the issues presented in this writ at this time, it is fervently requested tha the writ issue and that the matters contained herein be remanded to the Court of Appeals for redetermination in

light of this Courts opinions in the Constitution, in Kras, 1973, and the various state and federal laws regarding discrimination against disabled veterans, and the prhibition contained in those laws.

Respectfully submitted,

Dated: June 28, 1991

Richard W. Plymale
Richard W. Plymale

Petitioner

APPENDIX A

No. 90-2202

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

RICHARD W. PLYMALE,

Plaintiff-Appellant,

v.

O R D E R

DONALD R. FREEMAN, Esq.; JUDITH)

A FULLERTON; MICHAEL J.)

MANGAPORA; ROBERT WEYHING, III;)

MICHAEL V. KELL; BARRY L. MOON;)

H. WILLIAM BUTLER; DONALD G.)

ROCKWELL; THOMAS YEOTIS;)

ROBERT M. RANSOM; WILLIAN A.)

REDMOND; STEWART A. NEWBLATT;)

JOHN DOE,)

John/Jane Doe 1, John/Jane)

Doe 2)

each and every associate of)

the court officers represented)

above;)

JURIDICAL PERSON OF THE CHIEF)

ADMINISTRATIVE OFFICE OF THE)

JUDICIAL COURT SYSTEM OF THE)

STATE OF THE STATE OF)

MICHIGAN,)

Defendants-Appellees.)

BEFORE: KENNEDY and JONES, Circuit Judges,

and FORESTER, District Judge.*

Richard W. Plymale, a pro se Michigan resident, appeals the district court's order dismissing his action filed pursuant to 42 U.S.C. § 1983 and the Racketeer Influenced Corrupt Organization Act (RICO), 18 U.S.C. 1961. The case has been referred to a panel of the court pursuant to Rule 9(a). Rules of the Sixth Circuit. Upon examination of the record and briefs, this panel unanimously agrees that oral argument is not needed. Fed. R. App. P. 34(a).

Seeking damages under 1983 and treble damages under RICO, Plymale sued numerous attorneys, (Mangapora, Weyhing III, Lekk, Butler, Moon, Rockwell, and Redmond) several judges (Newblatt, Freeman, Fullerton, Yeotis, and Ransom) as well as the "Judicial Person of the

Chief Administrative Office of the Judicial Court System of the State of Michigan." The complaint does not state that defendants are being sued in their individual as well as official capacity. The action arose out of Plymale's unsuccessful and lengthy state court litigation concerning his billings to the Delta Dental Plan for the application of a dental treatment known as "Zercate Treatment Paste." Plymale is a dentist licensed to practice in Michigan.

Plymale raised numerous allegations in a rambling complain which is 119 pages long and encompasses twenty-four counts. In his complaint, Plymale relied on the principle of "lex talionis." i.e., "an eye for an eye and no constitutional rights for no constitutional rights."

Thus, he sought to have the court revoke the citizenship of all the defendants, declare that their constitutional rights are "null," and have their legal status changed to "alien resident." He also requested: (1) that the entire court system of the state of Michigan be altered to a buddy system so that no judge could act without the concurrence of another; (2) that the federal courts replace the elected judges of the Supreme Court with senior judges from the state Court of Appeals; and (3) that the state regulatory agencies, such as the Michigan Department of Licensing and Regulation.

The current complaint, filed in December 1989, is Plymale's third complaint. Plymale's first complaint was struck from the record by Judge Newblatt, who ordered that an amended complaint be filed. The amended complaint which was filed in July 1989, was dismissed without prejudice by

Judge Newblatt because it failed to comply with Fed, R. Civ. P. 8(a).

After a review, the district court dismissed the complaint with prejudice for failure to comply with Fed. R. Civ. 8. The court also noted that the complaint contained multiple defects which could not be cured by repleading. Plymale has filed a timely appeal. In addition, he has filed a separate motion for miscellaneous relief, which asks this court to grant him "standing" on appeal.

Upon review, we conclude that the district court did not abuse its discretion in dismissing Plymale's complaint for failure to comply with Rule 8. See Michaelis v. Nebraska Bar Association, 717 F 2

437,439 (8th Cir. 1193); Nevijel v. North Coast Life Ins. Co., 651 F 2d 671,673 (9th Cir.1981) (per curiam).

Accordingly, the motion for miscellaneous relief is denied, and the district court's judgement is affirmed for the reasons stated in the district court's order datee September 24, 1990. Rule 9(b) (5) Rules of the Sixth Circuit.

ENTERED BY ORDER OF THE COURT

Leonard Green, ji
Clerk

APPENDIX B

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

RICHARD W. PLYMALE,

Plaintiff,

v.

DONALD R. FREEMAN, et al.,

Defendents.

Case No: 89-CV-10321-BC

ORDER OF DISMISSAL

Plaintiff Richard Plymale, acting in
pro per, sues for damages for alleged
violation of constitutional rights and

He appeals to the "lex talionis" ("...an 'eye for an eye' and no constitutional rights for no constitutional rights"). He asks that the entire court system of Michigan, which he accuses of corruptness, be altered to a buddy system where no one judge could act without the concurrence of another. He asks that this court replace the elected judges of the Supreme Court of Michigan by senior Court of Appeals judges"...as determined by length of service." Plaintiff suggests that "regulatory agencies", presumably the Michigan Judicial Tenure Commission by tone of the plaintiff's complaint, are to be replaced by a division of the Michigan department of Licensing and Regulation (or "another such independent regulatory agency").

fendants in plaintiff's first lawsuit, Judge Newblatt entered an order striking plaintiff's complaint and directing that an amended complaint complying with the Federal Rules of Civil Procedure be filed within thirteen days.

An amended complaint was filed by plaintiff on July 26, 1989. Judge Newblatt ruled, however, that the amended complaint was defective as well and plaintiff's amended complaint was dismissed (without prejudice) for the specific reason that it failed to comply with Fed.R.Civ.P. 8(a) requiring a proper jurisdictional statement and a short claim showing entitlement to relief. Upon the plaintiff's receipt of this ruling from the court, Judge Newblatt promptly became defendant Newblatt.

Plaintiff's present lawsuit was filed on December 27, 1989. A comparison of the present complaint with the original complaint, defendants contend, reveals that except with the addition of Judge Newblatt as a defendant, plaintiff's new complaint adds nothing of significance to an understanding of his claims except unintelligible RICO allegations and bulk.

At risk of becoming an unwilling and uninvited "member of the enterprise", this court now dismissed the complaint, with prejudice, for failure to comply with Rule 8 of the Federal Rules of Civil Procedure. Because the complaint contains multiple defects upon which dismissal may be granted for the particular

defendants, the court concludes that there are substantial infirmities in this suit which make repleading moot.

Crumpacker v. Civiletti, 90 F.R.D. 326 (1981). No Rule 11 sanctions will be awarded.

¹In actuality, the number of defendants may not be limited to thirteen; it may approach the infinite. Plaintiff did not stop with "John and Jane Doe", but denominated "John/Jane Doe 1, J/J' Doe 2 . . . n". The mathematical significance of the plaintiff's configuration "...n" appears intended to designate as defendant everyone not otherwise specifically named, and to do so to the "nth" number. The "n" in this usage stands for an indefinite ordinal number infinitely large, and this would appear to implicate all human souls on the planet.

ORDER

IT IS ORDERED that this matter is
DISMISSED WITH PREJUDICE.

Entered this 20th day of September, 1990

BY THE COURT:

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ROBERT H. CLELAND
UNITED STATES DISTRICT
JUDGE

APPENDIX C

THE CONSTITUTION OF THE UNITED STATES

Preamble

We the people of the United States,
in Order to form a more perfect Union,
establish Justice, insure domestic Tran-
quility, provide for the common defense,
promote the general welfare, and secure
the blessings of liberty to ourselves and
our posterity, do ordain and establish
this Constitution for the United States
of America.

(emphasis added)



No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1991

RICHARD W. PLYMALE - PETITIONER

vs.

DONALD R. FREEMAN, ESQ. ET. AL. - RESPONDENTS

PETITION FOR WRIT OF CERTIORARI
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PETITION FOR WRIT OF CERTIORARI
